

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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No: 10-1587

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Tami Smith, as Personal Representative of the  
Estate of Velda Smith, deceased,

Plaintiff - Appellant

v.

Gary Bubak, M.D.; Wagner Community Memorial Hospital,  
a South Dakota Corporation; Bubak Medical Clinic;  
Avera Health, a South Dakota Corporation; Avera Sacred  
Heart Hospital,

Defendants - Appellees

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Appeal from U.S. District Court for the District of South Dakota - Sioux Falls  
(4:08-cv-04023-LLP)

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**JUDGMENT**

This appeal from the United States District Court was submitted on the record of the  
district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district  
court in this cause is affirmed in accordance with the opinion of this Court.

June 24, 2011

Order Entered in Accordance with Opinion:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans